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10/001,310	11/23/2001	Scott Frey	1222	2360

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 08/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. 10/001,310	Applicant(s) Scott Frey
Examiner YVONNE M. HORTON	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on Apr 17, 2003.

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) 1 and 3-14 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) 14 is/are allowed.

6)  Claim(s) 1 and 3-13 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1,3-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is directed to “a snap lock device” alone “for being hingedly secured to an extension and downspout”. Hence, the extension and downspout are not a positive part of the claim limitations. Further, in order to be given consideration as a positive limitation in a claim, the functional recitation that the snap lock device is “for being secured” to the extension and downspout, a functional recitation must be expressed as a “means” for performing the specified function, as set fourth in 35 U.S.C. § 112, 6th paragraph, and must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. Thus, until additional clarification is provided, the claims have been read only considering the snap lock device by itself.

### ***Claim Rejections - 35 USC § 103***

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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4. Claims 1 and 3-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,846,040 to UENO. UENO discloses the use of a snap lock device, as shown in figure 1, including a first member (10) having a head (11) and a shank (12); wherein the shank (12) is intended to extend through holes (H1,H2), respectively in members (P1,P2). The device of UENO further includes a second member (20) that cooperates with the first member (10); wherein the second member (20) includes an aperture (24) for locking reception of the first member (10) therein. The shank (12) includes an annular ridge (R), see the marked attachment of figures 6 and 7, formed at the point of intersection of the annular recess (12a) and the sloped surface (12a'). UENO discloses the basic claimed device except for he only shows one snap lock device. Although UENO only shows one snap lock device, his device is used to secure two adjacent panel members. It would have been obvious to one having ordinary skill in the art at the time the invention was made that depending upon the purpose or intended use of the panel additional snap lock members would be required. However, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to use additional snap lock members in the structure of UENO, since the mere duplication of essential parts of an invention involves only routine skill in the art. Thus, it would have been obvious to provide UENO with a third member (10) having a head (11) and a shank (12) also having an annular ridge (R) formed at the point of intersection of the annular recess (12a) and the sloped surface (12a'), see the marked attachment of figures 6 and 7; wherein the shank (12) is also intended to extend through another hole (H1,H2), respectively in members (P1,P2); and to provide UENO with a fourth

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member (20) that would cooperate with the third member (10); wherein the fourth member (20) would also have an aperture (24) for locking reception of the third member (10) therein. The additional snap lock device would provide the assembly of UENO with a more secure and watertight connection.

In reference to claim 3, the head (11) of the first member (10) is "disc-shaped", column 4, line 23,24.

Regarding claim 4, UENO is silent with respect to the material used to form the head (11) of the first member (10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the material of the head portion of the first member for the use intended as an obvious matter of design choice. For instance, if the device where being used in an environment utilizing excessive water, a plastic snap lock member might be warranted. However, in an environment where moisture is not an issue or where additional strength is required at the connection, one might choose a metal material to form the head of the first member.

In reference to claims 6-9, the shank (12) of UENO is cylindrical, column 4, line 4, has a distal end, as at (12c) and a proximal end, as at (12d); is positioned normal to the head (11) and has a diameter less than the diameter of the head (11) wherein the annular ridge (R) is formed by the cylindrical surface and the annular ridge (R) locks the second member (20) relative to the first member (10).

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Regarding claims 10,11 and 12, the second member (20) has a disc configuration as at (21) and is made from a plastic material, column 5, line 56. Regarding claim 12, UENO uses plastic material for his second member (20); however, he does not specifically detail the use of a nylon material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select a known material for the use intended as an obvious matter of design choice.

5. Claims 1,6-8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,975,820 to KIRCHEN. KIRCHEN discloses the use of a snap lock device (10) including a first member (12) having a head as at (20) and a shank (42); wherein the shank (42). The device of KIRCHEN further includes a second member (14) that cooperates with the first member (12); wherein the second member (14) includes an aperture (56) for locking reception of the first member (12) therein; and wherein the shank (42) includes an annular ridge (46). KIRCHEN discloses the basic claimed device except for he only shows one snap lock device. Although KIRCHEN only shows one snap lock device, his device is used to secure two adjacent panel members. It would have been obvious to one having ordinary skill in the art at the time the invention was made that depending upon the purpose or intended use of the panel additional snap lock members would be required. However, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to use additional snap lock members in the structure of KIRCHEN, since the mere duplication of essential parts of an invention involves only routine skill in the art. Thus, it would have been obvious to provide KIRCHEN

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with a third member (12) having a head (20) and a shank (42) also having an annular ridge (46) that would cooperate with an aperture (56) formed in the fourth member (14) for locking reception of the third member (12) therein. The additional snap lock device would provide the assembly of KIRCHEN with a more secure and watertight connection.

In reference to claims 6-8, the shank (42) of KIRCHEN is cylindrical and has a distal end, as at (44) and a proximal end, as at (40); is positioned normal to the head (20) and has a diameter less than the diameter of the head (20).

Regarding claim 13, the second member (14) has a diameter, about portions (50,52) that appears to be the same as the diameter of the head (20) of the third member (12), see the marked attachment of figure 2.

***Allowable Subject Matter***

6. Claim 14 remains as being allowable.

***Response to Arguments***

7. Applicant's arguments with respect to claims 1 and 3-13 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH



July 22, 2003